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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

In the Matter of)	
)	
Policies and Rules Pertaining to)	File No. CCB/CPD 97-19
Local Exchange Carrier "Freezes" on)	
Consumer Choices of Primary Local)	<u>RM-9085</u>
Exchange or Interexchange Carriers)	

COMMENTS OF WORLDCOM, INC.

WorldCom, Inc. ("WorldCom"), hereby files its comments in response to the Public Notice ("Notice"), DA 97-942, issued by the Commission on May 5, 1997 concerning the Petition for Rulemaking filed by MCI Telecommunications Corporation ("MCI") on March 18, 1997 in the above-referenced proceeding.

I. INTRODUCTION AND SUMMARY

WorldCom is a premier global telecommunications company that provides facilities-based and fully integrated local, long distance, international, and Internet services. WorldCom is the fourth largest facilities-based interexchange carrier ("IXC") in the United States. Following its merger with MFS Communications on December 31, 1996, the new WorldCom now includes the largest facilities-based competitive local exchange carrier ("CLEC") in the United States, and UUNET, a leading provider of Internet access services. As a company situated at the center of the rapidly-developing convergence of these and other communications markets, WorldCom has a truly unique perspective on telecommunications policy issues.

MCI asks the Commission to establish rules governing the local exchange carriers' ("LECs") solicitation of so-called "freezes" on customers' primary interexchange carrier

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("PIC"), and other restrictions on a consumer's ability to switch its preselected interexchange and local exchange carriers. MCI submits that, despite the LECs' claims that they are offering PIC freeze services to prevent slamming (the unauthorized change of a customer's preferred carrier), in reality the LECs are employing PIC freezes "as a strategic tool to lock in their own customers and to impede effective competition, particularly in the local and intraLATA toll markets they currently dominate."¹ MCI asks the Commission to find these types of PIC freezes to be unlawful under the Communications Act, and to adopt a rule broadly prohibiting such anticompetitive practices.²

WorldCom supports MCI's petition insofar as it asks the Commission to declare that certain LEC practices that limit a customers' ability to change local or long distance carriers are unjust and unreasonable actions under the Communications Act. WorldCom supports the adoption of a narrowly-tailored federal rule that would prohibit the employment of such anticompetitive practices by any telecommunications carrier.

II. THE COMMISSION SHOULD ADOPT A NARROWLY-CRAFTED RULE PROHIBITING UNJUST AND UNREASONABLE RESTRAINTS ON THE CUSTOMER'S ABILITY TO CHOOSE A TELECOMMUNICATIONS CARRIER

The hallmark of the Telecommunications Act of 1996 is the encouragement of active and effective competition in all telecommunications markets. WorldCom believes, in turn,

¹ MCI Petition at 1-2.

² MCI Petition at 8-9.

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that the actual trigger of competition, and all its many benefits, is consumer choice. If consumers have the ability and knowledge to freely select from the many offerings of an wide array of providers, then competition is bound to flourish. In contrast, if a consumer's ability to choose is artificially constrained in some fashion, competition will suffer accordingly. In the new environment engendered by the Telecommunications Act, one of the Commission's primary roles is to allow the marketplace to work by removing as many unnecessary hurdles as possible that would hinder the consumer's freedom of choice.

In line with the critical role of consumer choice in advancing competition in telecommunications markets, WorldCom believes that customers have every right to order and use services that prevent carriers from engaging in unlawful slamming practices against them. When used for this purpose, PIC freezes and other similar devices help preserve consumer choice, rather than impede it. This certainly has been the case in the long distance market, where PIC freezes often can be effective tools against disreputable companies employing deceptive marketing practices to achieve unauthorized PIC changes. Until recently, there has been little danger of incumbent LECs employing PIC freezes in an anticompetitive fashion because, for the most part, the LEC has no stake in which IXC the consumer ultimately chooses as its preferred carrier. Of course, this is no longer the case; as GTE and other independent LECs are now providing long distance services, and as the Regional Bell Operating Companies ("RBOCs") eventually are allowed into the in-region long distance market, the incentives to engage in anticompetitive actions to acquire and retain customers will become enormous. With

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the creation of these new incentives, the Commission must have rules in place to protect consumers.

In the local and intraLATA toll markets, however, there can be no dispute that an ILEC-administered and marketed service freeze on its customers' selection of carriers is unnecessary for any legitimate purposes, and is only being used to shield the incumbent's customers from competition. While the ILECs may try to claim that PIC freezes are necessary to protect their customers from unscrupulous operators, the simple fact is that at present there is absolutely no evidence of actual local competition for residential customers, let alone unscrupulous competition generated via slamming. Indeed, even if local competition does begin to develop slowly over the coming years, the ILECs to date can provide no proof of any slamming committed against their customers.

Moreover, even if the theoretical opportunity for slamming develops as competition develops, there is no way the ILECs will ever allow slamming of their customers to happen. Unlike in the current long distance market, where the ILEC (with notable exceptions such as GTE) has no stake (and thus no preference) in which IXC is providing service, in the local market the ILEC naturally has every incentive to keep each and every local and intraLATA toll customer that it possibly can.³ Viewed in this context, the PIC freeze service offers the

³ In one recent example, the Michigan Public Service Commission last year sanctioned Ameritech's deceptive PIC freeze operation as "anticompetitive because it created new hurdles to the exercise of the customer's decision to change providers just as alternatives were becoming available." In the Matter of the Complaint of Sprint Communications Company, L.P. against Ameritech Michigan, Case No. U-11038, decided August 1, 1996, at

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ILEC a perfect opportunity to retain its captive customers through fear and distortions, while all the while cloaking its practices in the mantle of "the public interest." Despite this twisted view of preserving "consumer choice," however, the ILECs are unable to demonstrate any legitimate purpose for a freeze on a customer's local exchange carrier or intraLATA toll carrier.

In addition, as MCI points out, there is a wide variety of PIC freeze processes in place around the country, involving varying degrees of verbal and written authorization for both obtaining and releasing a PIC freeze.⁴ It can be expected that, left to their own devices without the Commission's forceful guidance, the ILECs inevitably will make it very quick and easy for a customer to employ a PIC freeze (and perhaps not receive the customer's informed consent in the process), and very difficult and cumbersome to release that same authorization so that the customer can utilize a competing carrier. Indeed, there appears to be nothing in the Commission's rules that would expressly prohibit the ILECs from using the PIC freeze process as a means of locking in its own customer base, while at the same time overriding otherwise valid PIC freezes for those consumers considering switching back to the ILEC. MCI also gives persuasive evidence that some ILECs currently are rejecting valid PIC change orders based on dubious PIC freezes.⁵

While WorldCom strongly endorses the views expressed in MCI's petition, and

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⁴ MCI Petition at 2.

⁵ MCI Petition at 4-5.

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asks the Commission to find the PIC freeze processes described therein are unjust and unreasonable under the Communications Act, WorldCom believes that MCI's suggested rules language may be more broad than necessary in order to remedy the problem. Rather than adopting language that generally prohibits all telecommunications carriers from engaging in "any practices... that have the purpose or effect of impeding competition"⁶ -- a highly laudable, but somewhat amorphous, prohibition -- the Commission instead should adopt more tailored rules. While WorldCom is not wedded to any particular language, the following is offered as one possibility:

Prohibition Against Unjust and Unreasonable Restrictions On Customer Ability To Select Carrier

- (a). It is an unlawful practice for any telecommunications carrier to solicit, market, or employ unjust and unreasonable restrictions on a customer's ability to select, replace, or change its preferred carrier. For purposes of this section, "unjust and unreasonable restrictions" include:
 - (1) a carrier's use of deceptive, misleading, or biased solicitations;
 - (2) a carrier's use of practices that have the effect of favoring one carrier or class of carriers over another, including any affiliated carrier; and
 - (3) a carrier's use of names and addresses of affected consumers without offering the same information expeditiously, and in the same manner, to any requesting carrier.

In any event, the Commission must make clear that it will assess substantial fines and other sanctions against any carrier that violates this rule.

MCI's petition offers compelling evidence that the PIC freeze practices being

⁶ MCI Petition at 8-9.

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employed by certain ILECs are anticompetitive and must be stopped immediately. The Commission should adopt federal rules which preserve the consumer's ability to choose, and to receive the innumerable benefits of true competition.

III. CONCLUSION

The Commission should adopt rules in accordance with the recommendations proposed above.

Respectfully submitted,



Catherine R. Sloan

Richard L. Fruchterman

Richard S. Whitt

David N. Porter
WORLDCOM, INC.
1120 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 776-1550

WORLDCOM, INC.
1120 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 776-1550

Its Attorneys

June 4, 1997

CERTIFICATE OF SERVICE

I, Cecelia Y. Johnson, hereby certify that I have this 4th day of June, 1997, sent a copy of the foregoing "Comments of WorldCom" by hand delivery to the following:

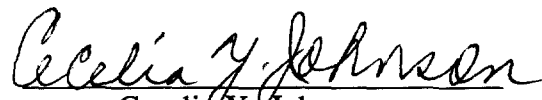
William F. Caton (original and 4 copies)
Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Regina Keeney
Chief, Common Carrier Bureau
Federal Communications Commission
Room 500
1919 M Street, N.W.
Washington, D.C. 20554

Judith Nitsche
Chief, Competitive Pricing Division
Common Carrier Bureau
Room 518
1919 M Street, N.W.
Washington, D.C. 20554

William Bailey
Competitive Pricing Division
Common Carrier Bureau
Room 518
1919 M Street, N.W.
Washington, D.C. 20554

International Transcription Service, Inc.
2100 M Street, N.W., Suite 140
Washington, D.C. 20037


Cecelia Y. Johnson